

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

RYAN J. LAWS,

Plaintiff,

v.

JOE CROFT, Deputy, et al.,

Defendants.

DECISION & ORDER

05-CV-6402CJS

Plaintiff, who is proceeding *pro se*, previously requested that the United States District Court Clerk issue a subpoena to the Wayne County Clerk for the production of certain identified documents, including the transcript of his previous trial in Wayne County. Those documents were also the subject of a separate request made by plaintiff pursuant to the Freedom of Information Law. By letter dated January 25, 2006, the Wayne County Clerk's Office responded to that request without objection and specified the copying costs for each of the requested documents. Rather than paying the copying fees, however, plaintiff sought a judicial subpoena from this Court. By order dated April 11, 2006, the Court directed plaintiff to explain why he was unable to obtain the documents he sought in the manner indicated in the Wayne County Clerk's letter. (Docket # 24). Eight days later, plaintiff filed a "Responding Affidavit" explaining that he has been granted *in forma pauperis* status and is unable to afford the fee required to obtain the Wayne County documents. (Docket # 25).

As explained in this Court's earlier order, the granting of *in forma pauperis* status permits plaintiff to prosecute this action without the prepayment of fees. *See* 28 U.S.C. §

1915(d). It does not, however, relieve plaintiff from the costs associated with discovery, such as the costs of producing documents or transcripts. *See Toliver v. Community Action Comm'n to Help the Econ., Inc.*, 613 F. Supp. 1070, 1072 (S.D.N.Y. 1985) (“Since plaintiff was proceeding pro se in a Title VII case, and in forma pauperis pursuant to 28 U.S.C. § 1915(a), there was no clear statutory authority for the prepayment of discovery costs”), *aff’d*, 800 F.2d 1128 (2d Cir.), *cert. denied*, 479 U.S. 863 (1986). Thus, any transcript or documents produced pursuant to this Court’s subpoena would still subject plaintiff to the costs necessary to obtain such documents.

Accordingly, plaintiff’s request for the issuance of a subpoena to the Wayne County Clerk for the production of documents is DENIED.

IT IS SO ORDERED.

s/Marian W. Payson

MARIAN W. PAYSON
United States Magistrate Judge

Dated: Rochester, New York
May 18, 2006.